



REPORT TO THE HEARING OFFICER

HEARING DATE: June 8, 2005

REPORT NO. HO-05-089

ATTENTION: Hearing Officer

SUBJECT: NOB HILL MAP WAIVER
PROJECT NUMBER: 53948

LOCATION: 2330 First Avenue

APPLICANT: First and Juniper Investors, LLC
Ken Wright, Pountney Psomas

SUMMARY

Requested Action - Should the Hearing Officer approve a Map Waiver and a Waiver of Undergrounding to convert fifty-one (51) residential units under construction to condominium ownership at 2330 First Avenue within the Uptown Community Plan area?

Staff Recommendation - APPROVE Map Waiver 156495 including the request to waive the requirement to underground existing overhead utilities.

Community Planning Group Recommendation – The project was presented at the Uptown Planners Meeting on March 1, 2005. The Community Planning Group recommended approval of the map waiver on a vote of 11 in favor, 3 opposed and 1 abstention with recommendations discussed in the report.

Environmental Review – The project has been determined to be exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332 of the State CEQA Guidelines.

BACKGROUND

The 0.674 acre site is located on the west side of First Avenue between Juniper Street and Kalmia Street at 2330 First Avenue in the Mid-Cities Communities Planned District (MCCPD) and Uptown Community Plan Area. The site is surrounded by Neighborhood Professional (NP) zones encouraging a mixture of office and residential use at a high density and multi-family residential zones.

The project site is located in the NP-1 Zone of the Mid Cities Communities Planned District within the Uptown Community Plan Area, Airport Approach and Airport Environs zones.

A Site Development Permit (Permit No. 41-0464) was issued on July 12, 2002 to demolish existing structures and develop a fifty-one unit, multi-story apartment building on First Avenue and Juniper Street and six multi-story row homes fronting on Front and Juniper Streets were also approved. The parcel with the six row homes, currently under construction, has been sold and is not longer a part of the proposed action for a Tentative Map Waiver.

The previously approved Site Development Permit was conditioned to conform to the Comprehensive Land Use Plan (CLUP) for Lindberg Field, and Airport Approach Overlay Zone (AAOZ) by requiring an avigation easement. The avigation easement was granted and recorded on April 02, 2002.

Fifty-one (51) condominiums are currently being built on a ministerial basis, (Building Permit B200152-04). The project is requesting a Map Waiver to waive the requirements of a tentative map for the subdivision of a 0.674 acre site into one lot for a fifty-one unit residential condominium development.

DISCUSSION

Section 125.0410 of the San Diego Municipal Code requires that a Tentative Map be processed for the subdivision of land. The Tentative Map request is a Process Three Hearing Officer decision as outlined in San Diego Municipal Code Section 125.0430, *Decision Process for a Tentative Map*. According to San Diego Municipal Code Section 125.0440, *Findings for Tentative Maps*, the decisionmaker may approve a Tentative Map if the decisionmaker finds that the proposed division of land complies with the requirements of the Subdivision Map Act and the San Diego Municipal Code.

According to San Diego Municipal Code Section 125.0444, *Findings for Tentative Maps for Condominium Conversion*, the decision maker may approve a Tentative Map for the purposes of the conversion of residential property into a condominium project if the decisionmaker finds that the proposed conversion complies with the requirements of the Subdivision Map Act and the San Diego Municipal Code.

The Subdivision Map Act and the Land Development Code provide a process to waive the requirement for a Parcel Map, and/or the associated Tentative Map for construction of a condominium on a single parcel. Section 125.0120 of the City's Land Development Code establishes a discretionary process which allows an applicant to request the Hearing Officer to consider a waiver of Map requirements for subdivision proposals which demonstrate compliance with the State's Subdivision Map Act. Staff has determined the proposed waiver conforms to the applicable requirements of the State's Subdivision Map Act Section 66428. Therefore, a Parcel Map may be waived for this project.

Underground Utility Waiver

The project site is located on a portion of First Avenue and a portion of Juniper Street. The project does not abut Kalmia and is not a part of the new construction abutting Front Street. The utilities on First Avenue are located under ground. There is one utility pole located across the street from the project on Juniper Street. Applicant is requesting a waiver for the undergrounding of utilities along Juniper Street.

San Diego Municipal Code Section 144.0240 allows the subdivider to apply for a waiver of the requirements to relocate the existing overhead utilities to an underground position within the boundary of the subdivision or within the abutting public rights of way. City staff has determined the undergrounding waiver request qualifies under the guidelines of Council Policy 600-25 (Underground Conversion of Utility Lines at the Developers Expense) in that the conversion involves a short span of overhead facility (less than 600 feet in length). The applicant would be required to underground any new service run to any new or proposed structures within the subdivision per conditions of the draft resolution. Undergrounding of Residential District 2-A is yet to be determined by Council (Attachment 9.)

Planning Group Recommendation

The Uptown Planners Group considered the project on March 21, 2005 and voted 11-3-1 in favor of the project. Four issues were raised regarding the project; the first was to underground utilities along Front Street. The sale of the row homes parcel along Front Street removed the nexus between the project site and Front Street. The project no longer abuts Front Street and therefore is not subject to undergrounding requirements. The second issue raised is to repair and replace the sidewalk along First Avenue to Kalmia Street. The project does not abut Kalmia; sidewalks will be repaired, replaced and maintained on First Avenue in front of the project. The third issue was to ensure adequate off-street and on-street parking and replace curb and gutter to City Standards. The project has been conditioned to meet City requirements for parking and curb and gutter. Finally the project has been conditioned to place any new back flow prevention devices or other utility equipment outside of the public right-of-way.

Inclusionary Affordable Housing Regulations

This project is subject to the Inclusionary Affordable Housing Regulations. In accordance with Section 142.1306(b) (4), an *applicant* may pay an in lieu fee subject to the regulations of the Inclusionary Affordable Housing Implementation and Monitoring Procedures Manual. The applicant has selected to pay an in-lieu fee. The project has been conditioned to require the applicant to comply with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code) to the satisfaction of the City Manager and the Housing Commission prior to recording of the Certificate of Compliance.

The San Diego Housing Commission has certified that the applicant for the subject property has satisfied all the provisions of the Municipal Code for Tenant Relocation Benefits. The units are currently under construction and no certificate of occupancy has been issued.

Conclusion:

Staff has reviewed the application for the map waiver and the request to waive the requirement to underground the existing utility lines. Staff has determined that the proposed condominium conversion complies with the applicable sections of the Municipal Code. Staff believes the required findings can be made to support the project. The Uptown Community Planning Group has recommended approval of the project. The proposed project was reviewed and exempted from the California Environmental Quality Act (CEQA) and as an existing approved construction project, the project is Categorically Exempt from further environmental review. Therefore, staff recommends that the Hearing Officer approve the map waiver and waive the requirement to underground the overhead utilities.

ALTERNATIVES

1. Approve, with modifications, Map Waiver 156495.
2. Deny Map Waiver 156495 if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

Jeffrey Wayne Robles,
Development Project Manager

Attachments:

1. Aerial Photograph of Project Site
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Map Waiver Exhibit
6. Draft Map Resolution with Findings and Conditions
7. Community Planning Group Recommendation
8. Ownership Disclosure Statement
9. Schedule for Undergrounding of Utilities
10. Site Development Permit No. 41-0464